

AMENDED IN ASSEMBLY AUGUST 9, 2004

AMENDED IN ASSEMBLY JUNE 17, 2004

AMENDED IN ASSEMBLY JUNE 7, 2004

SENATE BILL

No. 1353

Introduced by Senator Perata

February 18, 2004

An act to amend Sections ~~82030~~ 82019, 82030, 82048, 84106, and 84202.5 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1353, as amended, Perata. Political Reform Act of 1974.

(1) Existing provisions of the Political Reform Act of 1974 (the act) require elected officials and ~~others~~ *designated employees* to disclose their income, excluding, among other things, salary and reimbursement for expenses or per diem received from a state, local, or federal government.

The bill would revise the definition of "public official" and "designated employee" to exclude federal officers or employees serving on a state or local agency.

~~This bill would expand that exclusion to also apply to~~ *also revise the definition of "income" to exclude social security, disability, or other benefit payments received from a state, local, or federal government.*

(2) Existing provisions of the act require a candidate or committee making contributions totaling \$10,000 or more in connection with an election to file a supplemental preelection statement no later than 12 days before the election.

This bill would specify that this supplemental preelection statement may be filed by guaranteed overnight delivery service or personal service.

(3) The bill would also make technical, nonsubstantive changes to the act.

(4) Existing law makes violations of the act punishable by administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on persons who violate provisions of the bill.

The

(5) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(5)~~

(6) The act, an initiative measure, provides that the Legislature may amend the act to further its purposes with a $\frac{2}{3}$ vote of each house and compliance with certain specified procedural requirements.

The bill would declare that it furthers the purpose of the act and would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 82019 of the Government Code is*
2 *amended to read:*

3 82019. (a) “Designated employee” means any officer,
4 employee, member, or consultant of any agency whose position
5 with the agency:

6 ~~(a)~~

7 (1) Is exempt from the state civil service system by virtue of
8 subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article
9 VII of the Constitution, unless the position is elective or solely
10 secretarial, clerical, or manual.

11 ~~(b)~~

12 (2) Is elective, other than an elective state office.

13 ~~(c)~~

(3) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

~~(d)~~

(4) Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

(b) (1) “Designated employee” does not include an elected state officer, any unsalaried member of any board or commission which serves a solely advisory function, any public official specified in Section 87200, and also does not include any unsalaried member of a nonregulatory committee, section, commission, or other such entity of the State Bar of California.

(2) “Designated employee” does not include a federal officer or employee serving in an official federal capacity on a state or local government agency. The state or local government agency shall annually obtain, and maintain in its files for public inspection, a copy of any public financial disclosure report filed by the federal officer or employee pursuant to federal law.

SEC. 2. Section 82030 of the Government Code is amended to read:

82030. (a) “Income” means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. “Income,” other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business

1 within the jurisdiction, or not having done business within the
2 jurisdiction during the two years prior to the time any statement or
3 other action is required under this title.

4 (b) “Income” also does not include:

5 (1) Campaign contributions required to be reported under
6 Chapter 4 (commencing with Section 84100).

7 (2) Salary and reimbursement for expenses or per diem, and
8 social security, disability, or other similar benefit payments
9 received from a state, local, or federal government agency and
10 reimbursement for travel expenses and per diem received from a
11 bona fide nonprofit entity exempt from taxation under Section
12 501(c)(3) of the Internal Revenue Code.

13 (3) Any devise or inheritance.

14 (4) Interest, dividends, or premiums on a time or demand
15 deposit in a financial institution, shares in a credit union or any
16 insurance policy, payments received under any insurance policy,
17 or any bond or other debt instrument issued by any government or
18 government agency.

19 (5) Dividends, interest, or any other return on a security which
20 is registered with the Securities and Exchange Commission of the
21 United States government or a commodity future registered with
22 the Commodity Futures Trading Commission of the United States
23 government, except proceeds from the sale of these securities and
24 commodities futures.

25 (6) Redemption of a mutual fund.

26 (7) Alimony or child support payments.

27 (8) Any loan or loans from a commercial lending institution
28 which are made in the lender’s regular course of business on terms
29 available to members of the public without regard to official status.

30 (9) Any loan from or payments received on a loan made to an
31 individual’s spouse, child, parent, grandparent, grandchild,
32 brother, sister, parent-in-law, brother-in-law, sister-in-law,
33 nephew, niece, uncle, aunt, or first cousin, or the spouse of any
34 such person, provided that a loan or loan payment received from
35 any such person shall be considered income if he or she is acting
36 as an agent or intermediary for any person not covered by this
37 paragraph.

38 (10) Any indebtedness created as part of a retail installment or
39 credit card transaction if made in the lender’s regular course of



1 business on terms available to members of the public without
2 regard to official status.

3 (11) Payments received under a defined benefit pension plan
4 qualified under Internal Revenue Code Section 401(a).

5 (12) Proceeds from the sale of securities registered with the
6 Securities and Exchange Commission of the United States
7 government or from the sale of commodities futures registered
8 with the Commodity Futures Trading Commission of the United
9 States government if the filer sells the securities or the
10 commodities futures on a stock or commodities exchange and does
11 not know or have reason to know the identity of the purchaser.

12 ~~SEC. 2.—~~

13 *SEC. 3. Section 82048 of the Government Code is amended to*
14 *read:*

15 82048. (a) “Public official” means every member, officer,
16 employee or consultant of a state or local government agency, ~~but~~
17 ~~does not include judges and court commissioners in the judicial~~
18 ~~branch of government. “Public official” also does not include~~
19 ~~members.~~

20 (b) *Notwithstanding subdivision (a), “public official” does not*
21 *include the following:*

22 (1) *A judge or court commissioner in the judicial branch of*
23 *government.*

24 (2) *A Member of the Board of Governors and designated*
25 *employees of the State Bar of California,* ~~members.~~

26 (3) *A Member of the Judicial Council,* ~~and members.~~

27 (4) *A Member of the Commission on Judicial Performance,*
28 *provided that* ~~they are~~ *he or she is* *subject to the provisions of*
29 *Article 2.5 (commencing with Section 6035) of Chapter 4 of*
30 *Division 3 of the Business and Professions Code as provided in*
31 *Section 6038 of that article.*

32 (5) *A federal officer or employee serving in an official federal*
33 *capacity on a state or local government agency. Section 84106 of*
34 *the Government Code is amended to read:*

35 84106. (a) Whenever identification of a sponsored
36 committee is required by this title, the identification shall include
37 the full name of the committee as required in its statement of
38 organization.

39 (b) A sponsored committee shall use only one name in its
40 statement of organization.

1 ~~SEC. 3.—~~

2 *SEC. 5.* Section 84202.5 of the Government Code is amended
3 to read:

4 84202.5. (a) Any candidate or any committee pursuant to
5 subdivision (a) of Section 82013 which makes contributions
6 totaling ten thousand dollars (\$10,000) or more in connection with
7 an election, including a runoff election, shall file a supplemental
8 preelection statement no later than 12 days before the election, for
9 the period ending 17 days before the election. This statement shall
10 be filed by guaranteed overnight delivery service or by personal
11 delivery with each office with which the candidate or committee
12 filing the statement is required to file its next campaign statement
13 pursuant to Section 84215.

14 (b) This section shall not apply to candidates or committees
15 during any semiannual period in which the candidate or committee
16 is required to file preelection statements pursuant to Section
17 84200.5.

18 (c) If a candidate or committee makes contributions totaling ten
19 thousand dollars (\$10,000) or more in connection with an election
20 and all of those contributions are reported pursuant to Section
21 84200 or 84202.7 on or before the closing date specified in
22 subdivision (a), the candidate or committee shall not be required
23 to file additional statements for that period pursuant to this section.

24 ~~SEC. 4.—~~

25 *SEC. 6.* No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 ~~SEC. 5.—~~

35 *SEC. 7.* The Legislature finds and declares that this bill
36 furthers the purposes of the Political Reform Act of 1974 within
37 the meaning of subdivision (a) of Section 81012 of the
38 Government Code.

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